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CHARLES CLARK
CLERK

IN THE
Supreme Court of the United States
OCTOBER TERM, 1947.
No. 408.

TRUST UNDER AGREEMENT DATED DECEMBER 30, 1921
BY JOHN E. ANDRUS, DECEASED (TRUST No. 1),
CENTRAL HANOVER BANK AND TRUST COMPANY,
HAMLIN F. ANDRUS, and WILLIAM H. TAYLOR,
Trustees,

Petitioners,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

**MOTION TO EXTEND TIME ALLOWED FOR
FILING PETITION FOR REHEARING.**

J. S. SEIDMAN,
Counsel for Petitioners,
80 Broad Street,
New York 4, N. Y.



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Now come the Petitioners in the above entitled proceeding and move this Honorable Court to extend the time for filing a petition for rehearing until December 31, 1948.

In that connection, Petitioners respectfully call to the attention of this Honorable Court that the Petition for Writ of Certiorari was filed with this Court after the Circuit Court of Appeals reversed the decision of The Tax Court of the United States. This Court denied the petition on November 24, 1947. A motion to extend the time allowed for filing a petition for rehearing was denied on December 18, 1947.

At all these times there was no conflict in decisions presented for resolution by this Court since the point involved was a novel one, involving the manner in which the income tax deduction for the amount going to charity from a trust is to be computed. The potential for such conflict has since come into existence. On January 5, 1948, Helen W. Benedict, et al., as Trustees Under the Will of John E. Andrus, Deceased, a separate taxpayer, filed a complaint in the Court of Claims of the United States, Docket No. 48463, against the United States of America a defendant, involving the identical issue. Said action is about to be submitted to said Court on the basis of an agreed stipulation of facts and it is anticipated that a decision will be rendered by said Court prior to the end of this year.

In view of the pending action before the Court of Claims, the Tax Court granted Petitioners' motion to extend to June 30, 1948 the time for the submission of recomputations for the entry of judgment. In said motion, Petitioners avowed their intention to apply to this Honorable Court before the expiration of the present term, for leave to extend the time allowed for filing a petition for rehearing. The granting of such petition will, of course, enable the Tax Court to suspend entry of final judgment in the present proceeding, pending developments during the extended period.

While the amount in controversy in the present proceeding is \$5,807.61, this same issue pervades other years where several hundred thousand dollars of taxes are involved. That is what accentuates the importance of the present proceedings and this motion.

WHEREFORE, your Petitioners respectfully pray that the time for filing a petition for rehearing may be ex-

tended until December 31, 1948, and that your Petitioners may have such other and further relief in the premises as to this Honorable Court may seem meet and just.

CENTRAL HANOVER BANK AND
TRUST COMPANY,
HAMLIN F. ANDRUS, and
WILLIAM H. TAYLOR,
*Trustees Under Agreement
Dated December 30, 1921 by
John E. Andrus, Deceased
(Trust No. 1), Petitioners,
By their Attorney,
J. S. SEIDMAN.*

Certificate of Counsel.

I, J. S. SEIDMAN, Counsel for the above named Petitioners, do hereby certify that the foregoing motion to extend the time allowed for filing a Petition for Rehearing of this case, is presented in good faith and not for delay.

Dated, New York, May 18, 1948.

J. S. SEIDMAN,
Counsel for Petitioners.